

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

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MIDNIGHT MADNESS DISTILLING, LLC,

*

**Case No. 21-11750-PMM
Chapter 7**

Debtor.

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**CONSENT MOTION OF MILLSTONE SPIRITS GROUP, LLC FOR
TURNOVER OF FUNDS LEVIED BY UNITED STATES ALCOHOL AND
TOBACCO TAX AND TRADE BUREAU**

Millstone Spirits Group, LLC (“Millstone”), by and through its undersigned counsel, and with the consent of the United States Alcohol and Tobacco Tax and Trade Bureau (the “TTB”), hereby files this motion seeking turnover of \$20,398.52 erroneously paid to the TTB and enforcement of this Court’s October 4, 2023 Order [Dkt. No. 332] and in support hereof, respectfully states as follows:

1. Contemporaneously with the filing of the present bankruptcy case, Midnight Madness Distilling, LLC (the “Debtor”) filed an *Expedited Motion for Entry of an Order: (I) Approving the Sale of up to Substantially All of the Debtor’s Assets, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, and (III) Scheduling Hearings for Such Relief and (IV) Granting Related Relief* (Dkt. No. 4; “Sale Motion”). The Sale Motion sought approval of a sale process for substantially all assets of the Debtor.

2. At the August 25, 2021 sale auction, Millstone submitted the highest and best offer.

3. Millstone's offer and Asset Purchase Agreement was approved by this Court on September 17, 2021.

4. Pursuant to the Asset Purchase Agreement, Millstone purchased, among other things, all of the accounts receivable owned by the Debtor and/or its various subsidiaries, including Crutch, LLC ("Crutch").

5. Subsequent to closing on the sale of the Debtor's assets, Millstone learned that in February 2022, the Pennsylvania Liquor Control Board (the "PLCB") submitted payment totaling \$20,407.20 via ACH directly to an account in the name of Crutch at Penn Community Bank.

6. Millstone attempted to work with Penn Community Bank but was informed that the bank could not discuss the Crutch account with anyone other than the authorized account owner, absent court order.

7. Accordingly, on August 30, 2023, Millstone filed a motion with this Court requesting an order of this Court (i) confirming that the payment sent by the PLCB on account of the Invoices is property of Millstone pursuant to the Asset Purchase Agreement; and (ii) directing Penn Community Bank to release the funds in the Crutch account to Millstone (the "Turnover Motion") [Dkt. No. 323].

8. This Court entered an order granting the Turnover Motion on October 4, 2023 (the "Turnover Order") [Dkt. No. 332].

9. Upon receipt of that Order, Penn Community Bank provided Millstone with records showing that the TTB had issued a Notice of Levy to the bank on April 22, 2022 against all accounts held by Crutch. A copy of the Notice of Levy is attached hereto as **Exhibit A**. On May 18, 2022, Penn Community Bank issued a check payable to the TTB for \$20,398.52 (the "Levied Funds") representing the full balance in the Crutch account. A copy of the May 18,

2022 check is attached hereto as **Exhibit B**. Millstone did not receive this information until fall of 2023 and spent the better part of the following year in discussions with the TTB for remittance of the Levied Funds.

10. The TTB does not dispute the facts asserted by Millstone and agrees that the Levied Funds should be returned to Millstone. However, because the Turnover Order requires “Crutch, LLC or anyone acting on its behalf” to remit to Millstone the funds “removed or withdrawn” from the Crutch bank account, and because the TTB asserts that it was not acting on behalf of Crutch when it levied the account, the TTB believes the Turnover Order does not enable it to disburse the Levied Funds to Millstone.

11. Accordingly, Millstone and TTB jointly request entry of an order directing the TTB and/or the U.S. Treasury to issue a check payable to Millstone for \$20,398.52, representing the amount of Levied Funds that were inadvertently, but improperly paid from the Crutch bank account to the TTB.

WHEREFORE, Millstone Spirits Group, LLC, respectfully requests that this Court enter an Order:

- A. Directing the United States Alcohol and Tobacco Tax and Trade Bureau to issue a check payable to Millstone for \$20,398.52 within ten (10) business days from entry of an order of this Court; and
- B. Granting such other and further relief as this Court deems fair and just.

DATE: March 12, 2025

Respectfully submitted:

/s/ Patricia B. Jefferson

Patricia B. Jefferson-Admitted Pro Hac Vice

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Counsel for Millstone Spirit Group, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 12, 2025, a true and correct copy of the foregoing Motion was served via this Court's CM ECF system upon:

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/s/ Patricia B. Jefferson

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